

Message Text

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21

ACTION AF-08

INFO OCT-01 EUR-12 ISO-00 EB-07 COME-00 TRSE-00 AID-05

XMB-02 FRB-03 CIAE-00 INR-07 NSAE-00 L-03 /048 W

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P R 210915Z OCT 76

FM AMEMBASSY KINSHASA

TO SECSTATE WASHDC PRIORITY 135

INFO AMEMBASSY BRUSSELS

AMCONSUL LUBUMBASHI

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DEPT PASS EXIM FOR GLICK AND NORRIS FROM GABA AND LENTZ

E.O. 11652: N/A

TAGS: EFIN, CG

SUBJECT: NEGOTIATIONS RE INGA-SHABA COST OVERRUN FINANCING

1. NEGOTIATIONS TOOK PLACE WITH OFFICIALS FROM BANQUE DU ZAIRE, FINANCE MINISTRY, SOZACOM AND GECAMINES PLUS LOGAN/COOKE OCT 18. GOZ INITIALLY LED BY GECAMINES DELEGATE GENERAL UMBA, QUESTIONED NECESSITY FOR INCLUSION OF GECAMINES IN PFA SINCE: (A) GECAMINES UNDER ZAIRIAN LAW DOES NOT HAVE TITLE TO COPPER OR PROCEEDS FROM ITS SALE AS TITLE RESTS WITH THE STATE AND GECAMINES IS MERELY A MINING AGENCY, AND (B) GECAMINES DOES NOT DESIRE \$20 MILLION EXIMBANK/CONTINENTAL ILLINOIS FINANCING AT THIS TIME. LENTZ AGREED TO ABOVE REQUESTS AND STATED EXIMBANK PREPARED TO CANCEL ITS LOAN/GUARANTEE COMMITMENT ON RECEIPT CONFIRMING LETTER WHICH UMBA PROMISED TO PROVIDE.

2. ON DETAILS OF PAYMENT FACILITY AND SNEL CREDIT AGREEMENTS, (UNDER CHAIRMANSHIP OF DEPT OF FINANCE) GOZ HAD SEVERAL SIGNIFICANT COMMENTS WHICH WERE RESOLVED AS FOLLOWS:

A. GOZ OBJECTED TO ORDERS OF PRIORITY DESCRIBED IN SECTION 2:01(B) OF PFA CLAIMING SEVERAL PAYMENTS REQUIRED BY PRIOR AGREEMENTS HAD TO BE MADE FIRST. WE AGREED AS FOLLOWS: EXPORT PROCEEDS WILL BE APPLIED FIRST TO REPAYMENT OF COPPER

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PREFINANCING, SECOND TO 10 PER CENT SET-ASIDE AT FEDERAL

RESERVE UNDER IMF STABILIZATION PROGRAM (FROM WHICH EXIM ALSO BENEFITS), THIRD TO IBRD TRUST PAYMENTS, AND NEXT TO EXIM.

B. GOZ OBJECTED TO LIMITATION ON LIENS COVENANT TO BE MADE BY GUARANTOR (SEE RIDER 21A OF SNEL CREDIT AGREEMENT), SAYING IT WAS UNNECESSARILY BROAD. IT WAS AGREED THAT EXIM LOAN WAS TO RECEIVE PARI PASSU TREATMENT WITH ANY LOANS OR GUARANTEES OF THE REPUBLIC OF ZAIRE, SNEL OR GECAMINES. IT WAS FELT BY GABA/LENTZ THAT ANY BORROWINGS BY OTHER AGENCIES OF GOZ WITHOUT GOZ GUARANTEE, WITH OR WITHOUT SECURITY, WERE VERY UNLIKELY WITH THE ONLY EXCEPTION BEING GECAMINES. GOZ RESERVED ON INCLUSION OF GECAMINES, BUT CONSENTED MORNING OF OCT 19.

C. GABA/LENTZ AGREED TO ELIMINATE TOTAL LIMIT ON SNEL ADDITIONAL DEBT IN ORIGINAL DRAFT CREDIT AGREEMENT AND SUBSTITUTION AGREEMENT TO CONSULT IN WRITING ON EXTERNAL DEBT FOR PROJECTS EXCEEDING \$75.0 MILLION. HOWEVER, THIS POINT HAD BEEN DISCUSSED EARLIER IN U.S. AND LANGUAGE INCLUDED IN DRAFT WAS NEGOTIATING TACTIC ATTEMPTING TO GET SOMETHING FROM SNEL. GOZ FELT, WITH SOME JUSTIFICATION, THAT SINCE IT GUARANTEED SNEL, SNEL'S NEW DEBTS WERE GOZ'S BUSINESS. NOTE THAT EARLIER CREDIT TO SNEL HAD NO RESTRICTIONS.

3. OTHER CHANGES IN PFA, SNEL CREDIT AND TWO AMENDMENTS ESSENTIALLY NON-SUBSTANTIVE.

4. OCT 19 WAS DEVOTED TO REDRAFTING, PREPARATION OF REPORTS, AND PREPARATION AND REVIEW OF CONDITIONS PRECEDENT. ALL WORK WAS COMPLETED. ON OCT 20 NECESSARY LAWS AND LEGAL OPINION WERE PRESENTED TO LEGAL COUNSEL FOR OFFICE OF THE PRESIDENT. LOGAN/ COOKE PLAN TO DEPART FOR U.S. OCT 20 OR 21.

5. LOGAN/COOKE WILL BRING DRAFTS TO NEW YORK AND SEND TO PANDICK FOR NEW PROOFS FOLLOWED BY EXECUTION COPIES. LOGAN WILL CONTACT GLICK TO DISCUSS DETAILS AND GIVE FURTHER EXPLANATION. LOGAN INDICATED HIS ACCRUED FEE NOW LESS THAN \$45,000, WITH ANOTHER \$10,000 AT A MAXIMUM. BELIEVE HE WOULD APPRECIATE INDICATION OF EXIM'S REACTION TO THIS FEE (WHICH SEEMS REASONABLE TO US).

5. PLEASE ALERT WAGNER TO POSSIBLE VISIT BY NEVILLE ADAMS OF M-K WEEK OF OCT 25 TO SUBMIT ACQUISITION PROGRAM, POWER RATE LIMITED OFFICIAL USE

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STRUCTURE AND SHABA NETWORK STATUS REPORT.
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